

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

ARC International Corp.
911 South Bixby Drive
City of Industry, CA 91745
CAL 000 273 749

Respondent.

Docket HWCA 2006 1272

CONSENT ORDER

Health and Safety Code
Section 25187

The State Department of Toxic Substances Control (Department) and ARC International, Corporation (Respondent) enter into this Consent Order (Order) and agree as follows:

1. Respondent receives, handles, treats, and/or stores cathode ray tubes (CRTs) and universal waste electronic devices (UWEDs), both hazardous wastes, at 911 South Bixby Drive, City of Industry, California 91745 (Site).
2. The Department inspected the Site on August 9, 2006.
3. The Department alleges the following violations:
 - 3.1. The Respondent violated California Code of Regulations, title 22, section 66273.81, subsection (a), and Health and Safety Code section 25189.2 in that on or about August 9, 2006, Respondent disposed crushed CRT glass on the property adjacent to Respondent's property.
 - 3.2. The Respondent violated California Code of Regulations, title 22, section 66273.87, subsection (a), in that on or about August 9, 2006, Respondent failed to immediately contain all releases of CRT material and residues from CRT materials.

3.3. The Respondent violated California Code of Regulations, title 22, section 66273.83, subsection (a)(1), in that on or about August 9, 2006, Respondent failed to contain any CRT materials in containers or packages that are structurally sound or adequate to prevent breakage.

3.4. The Respondent violated California Code of Regulations, title 22, section 66273.83, subsection (d)(9), in that on or about August 9, 2006, Respondent failed to ensure all treatment is conducted over or in a containment device sufficient in size and construction to contain any CRT glass that may be released.

4. A dispute exists regarding the alleged violations.

5. The parties wish to avoid the expenses of litigation and to ensure prompt compliance.

6. Jurisdiction exists pursuant to Health and Safety Code section 25187.

7. Respondent waives any right to a hearing in this matter.

8. This Consent Order shall constitute full settlement of the violations alleged above, but does not limit the Department from taking appropriate enforcement action concerning other violations.

9. By entering into this Consent Order, the Respondent does not admit any of the violations alleged above.

SCHEDULE FOR COMPLIANCE

10. Respondent shall comply with the following:

10.1. Respondent has corrected the violations cited above. Respondent shall operate hereafter in a manner that shall prevent recurrences of the violations cited herein.

10.2. Submittals: All submittals from Respondent pursuant to this Consent Order shall be sent to:

Mr. Robert Kou, Unit Chief
Statewide Compliance Division
Southern California Branch
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

10.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

10.4. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

10.5. Endangerment during Implementation: In the event that the Department determines that any circumstances or activity (whether or not pursued in compliance with this Consent Order) are creating an imminent or substantial endangerment to the health or welfare of people on the site or in the surrounding area or to the environment, the Department may order Respondent to stop further implementation for such period of time as needed to abate the endangerment. Any deadline in this Consent Order directly affected by a Stop Work Order under this section shall be extended for the term of such Stop Work Order.

10.6. Liability: Nothing in this Consent Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Consent Order. Notwithstanding compliance with the terms of this Consent Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

10.7. Site Access: Access to the Site shall be provided at all reasonable times to employees, contractors, and consultants of the Department, and any agency having jurisdiction. Nothing in this Consent Order is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law. The Department and its authorized representatives may enter and move freely about all

property at the Site at all reasonable times for purposes including but not limited to: inspecting records, operating logs, and contracts relating to the Site; reviewing the progress of Respondent in carrying out the terms of this Consent Order; and conducting such tests as the Department may deem necessary. Respondent shall permit such persons to inspect and copy all records, documents, and other writings, including all sampling and monitoring data, in any way pertaining to work undertaken pursuant to this Consent Order.

10.8. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 12.3, in carrying out activities pursuant to this Consent Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Consent Order.

10.9. Incorporation of Plans and Reports: All plans, schedules, and reports that require Department approval and are submitted by Respondent pursuant to this Consent Order are incorporated in this Consent Order upon approval by the Department.

10.10. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Consent Order, the Respondent may, prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

10.11. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

PAYMENTS

11. Respondent shall pay the Department a total of \$35,000.00. Up to \$25,000.00 of the penalty amount is available as a credit against the penalty in the form of a supplemental environmental project (SEP) described in Exhibit 1 to this Order. The SEP shall be completed within one year of the effective date of this Order. If the

Department approved documented costs for the SEP exceeded the \$25,000.00, the excess amount shall not be considered as an additional credit to the total penalty amount. If the documented costs for the SEP do not total \$25,000.00, the Respondent shall pay the shortfall to the Department by check as part of the total penalty. Such difference shall be paid by Respondent to the Department within 30 days from Department's notice of the applicable amount to Respondent. For waste for which the Department authorizes SEP credits, the Respondent shall not receive reimbursement from the California Integrated Waste Management Board (CIWMB) pursuant to the SB 20/SB 50.

11.1. Respondent shall pay to the Department a total of \$10,000.00 as a penalty. The payments shall be paid in two installments. The first installment of \$5,000.00 is due on April 1, 2007, and a second payment of \$5,000.00 is due on August 1, 2007. Any installment payment that is received by the Department more than (15) days after it is due will be subject to a \$250 penalty, such penalty shall be paid by Respondent no later than the due date of the next installment payment. If the Respondent is late in making payments, or fails to make a full installment payment within (30) days of its due date, then the Department, at its option, may declare the entire balance of the outstanding penalty due and owing. If Respondent fails to make any payment timely as provided above, Respondent agrees to pay interest thereon at the rate established pursuant to Health and Safety Code section 25360.1. Respondent further agrees to pay all cost and attorney's fees incurred by the Department in pursuing the collection of any sums the payment of which becomes delinquent hereunder. Respondent's checks shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check shall be sent simultaneously to:

Mr. Robert Kou, Unit Chief
Statewide Compliance Division
Southern California Branch
Department of Toxic Substances Control
1011 N. Grandview Avenue
Glendale, California 91201

Ramon Perez, Esq.
Office of Legal Counsel
Department of Toxic Substances Control
9174 Sky Park Court, Suite 150
San Diego, California 92123-4340

11.2. Supplemental Environmental Project.

Within 30 days of the effective date of this Order, Respondent shall pay \$5,000 to the Environmental Education Account of the California Environmental Protection Agency. Respondent shall pay with a check payable to "Environmental Education Account (Fund 8020)" and send that check to:

Judy Tanimoto
Fiscal Officer
California Environmental Protection Agency
P.O. Box 1436
Sacramento, California 95812-2815
(919) 322-8200

Respondent shall also give notice of the payment to Linda S. Adams, Secretary of Environmental Protection, at the same address. If Respondent should publicize this SEP, Respondent agrees that it will state in a prominent manner that the SEP was undertaken as part of the settlement agreement.

OTHER PROVISIONS

12.1. Additional Enforcement Actions: By agreeing to this Consent Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Consent Order.

12.2. Penalties for Noncompliance: Failure to comply with the terms of this Consent Order may subject Respondent to civil penalties and/or punitive damages

for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

12.3. Parties Bound: This Consent Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Consent Order.

12.4. Effective Date: The effective date of this Consent Order is the date it is signed by the Department.

12.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

Dated: 2/6/2007

Original signed by Bruce Jan
Signature of Respondent's Representative

Bruce Jan, General Manager
Typed or Print Name and Title of Respondent's Representative

Dated: 2/14/2007

Original signed by Robert Kou
Robert Kou, Unit Chief
Statewide Compliance Division
Department of Toxic Substances Control